a State. Cities, counties, and the State as a whole constitute that federalism. The three-judge-court statute, 28 U. S. C. § 2281, speaks of "the enforcement, operation or execution of any State statute." A city ordinance or a county regulation does not meet that requirement and so the county regulations involved in *Moody* did not satisfy the statute though enacted by the State. If the source of the authority is state action, the statute is presumably satisfied, since normally, of course, state laws have an impact on activities in every city and every county. But where a state law is not of "statewide concern" but involves only "legislation affecting a locality" (*Rorick* v. *Board of Commissioners*, 307 U. S. 208, 213), then the policy of 28 U. S. C. § 2281 is deemed not served.

But a State's university system, involving, as does this one, 17 institutions, is plainly of "statewide concern" even though not every county has a university.[1]

In addition to its supervision of the University of Texas at Austin, Texas Rev. Civ. Stat. Ann., Art. 2584 *et seq.*, and the other institutions included in the 17 that are in the state university system,[2] the Board of Regents also oversees a number of other major institutions of higher education within Texas' university and college system: University of Texas at El Paso, *id.*, Art. 2633, University of Texas at Arlington, *id.*, Art. 2620a, University of

[1] During oral argument, counsel for appellant indicated that its authority extended over some "17 component institutions in the system," stretching from El Paso on the far western tip of the State, to Galveston on the Gulf Coast, and from San Antonio in the south to Dallas in the north. Tr. of Oral Arg. 6–7. "[A]t the University of Texas at Austin alone," counsel told us, "there are 40,000 students, and over 7,000 employees on a 265-acre campus. When you include all the other campuses and institutions, I'm hard put to say how many people are involved; but many, many thousands." *Id.*, at 10.

[2] See n. 1, *supra*.

Texas at San Antonio, *id.*, Art. 2606c–3, University of Texas at Dallas, *id.*, Art. 2606c–3.1, University of Texas of the Permian Basin, *id.*, Art. 2606c–4, Institutes for Urban Studies in the Dallas-Ft. Worth area and in Houston, *id.*, Art. 2606d, as well as other institutions of learning. *E. g., id.*, Art. 2585d (3).

The matter involves more than state "legislation affecting a locality": it concerns a statewide university system scattered across the State and serving the educational needs of those from every city, from every county, who seek undergraduate or graduate education.[3]

Since the case is properly here, I would reach the merits.

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[3] That a "statewide concern" sufficient to require a three-judge court is present is evidenced by *Alabama State Teachers Assn.* v. *Alabama Public School and College Authority*, 393 U. S. 400 (1969), a case of recent vintage which the Court must overrule to reach its result today. There, we sustained a three-judge-court action dealing with state bonding authority for a single college in a single town. See also *McLaurin* v. *Oklahoma State Regents*, 339 U. S. 637 (1950) (three-judge court required for action relating to single state graduate school). The present case is an even stronger one for the convention of a three-judge court because the rules in issue touch upon the freedom of expression in colleges and universities in all four corners of the State of Texas.

And see *Board of Visitors* v. *Norris*, *post*, p. 907, aff'g 327 F. Supp. 1368 (ED Va. 1971), decided about three months ago. There, the three-judge court struck down as unconstitutional a single item in a state act dealing with but one of the State's colleges. This Court unanimously affirmed that judgment.

Alabama State Teachers Assn., *McLaurin*, and *Norris* did not, as is suggested by the majority, depend upon the existence of a pervasive state policy of segregation extending beyond the educational institutions there involved. The statewide concern which justified the convention of the three-judge courts in those cases, cf. *Spielman Motor Sales Co.* v. *Dodge*, 295 U. S. 89 (1935), was the unconstitutional manner in which state institutions, serving the entire State, were being operated. That same kind of operation of statewide institutions is alleged in the present case.